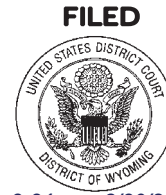


IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING



FILED

3:31 pm, 8/30/23

U.S. Magistrate Judge

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. L:23-PO-00151-SAH

DANIEL HYTOWITZ,

Defendant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On July 28, 2023, this matter was tried before the Court, with the United States represented by Ariel Calmes and Daniel Hytowitz (hereinafter, “Defendant”) appearing *pro se*. The Defendant was charged with one count of off-trail travel in a thermal area in violation of 36 C.F.R. § 7.13(j) which reads:

Travel on trails. Foot travel in all thermal areas and within the Yellowstone Canyon between the Upper Falls and Inspiration Point must be confined to boardwalks or trails that are maintained for such travel and are marked by official signs.

The United States presented the testimony of Ms. Cheyann Arnason, National Park Ranger Casey Lewis, National Park Ranger Renee Benson, and National Park Ranger Dean Hill. The Defendant did not present any witnesses and chose not to testify on his own behalf. The trial was conducted, with the consent of both parties, via videoconferencing.

The Court, having reviewed the testimony and evidence in this case, finds the following facts proven beyond a reasonable doubt:

On April 5, 2023, Witness Cheyann Arnason was on foot in the area of Mammoth Hot Springs within the exterior boundaries of Yellowstone National Park in the District of Wyoming. The Mammoth Hot Springs area is a large thermal area that contains clearly marked trails and boardwalks as well as warning signs as depicted in Exhibits 1 and 2.

Ms. Arnason saw a group of individuals that included two adult males and three children near a feature called Liberty Cap. At one point, a photo was taken of two of the individuals (Exhibit 5). Exhibit 5 depicts the area called the Hymen Terrace, the thermal area is obvious as depicted by the formations as well as water and steam. In Exhibit 5, there is a sign to the right of the individuals. The sign is depicted more clearly in Exhibits 3 and 4. The sign says, "DANGER" in large white letters on a red background. Other lettering on the sign says, "Fragile Thermal Area" and depicts a symbol of an individual walking on a trail with a large red circle around it and a diagonal line through the picture indicating no foot travel in the area.

The individuals, one adult and one child, in Exhibit 5 are not on a trail or boardwalk in the thermal area. The adult has a slight to medium build and is wearing a dark gray jacket or sweatshirt with a hood pulled up, dark colored pants and black or dark colored shoes. The child is wearing a dark, slightly longer jacket with the hood pulled up and dark pants.

After taking photos and telling the individuals they should not be in the thermal area, Ms. Arnason made a report to the National Park Service and three rangers responded. Ms. Arnason and other individuals showed photos and videos of what they had seen to the rangers which included the picture in Exhibit 5. After providing a description of the party to the rangers, Ms. Arnason was able to point out the group to the rangers as the individuals

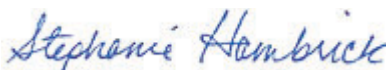
traversed the boardwalk. Rangers contacted the party noting there were only two adult male individuals within the group. One adult male was identified as the Defendant, Daniel Hytowitz, and the other adult male was identified as Defendant's brother, Barry Hytowitz.

The Defendant was wearing a dark grey zip-up hoodie, black or navy pants, and black shoes. At the time of contact by Ranger Lewis, the Defendant was with a child wearing a dark, longer coat with a hood and dark pants. The Defendant and child matched the two individuals in Exhibit 5.

Although Barry Hytowitz was initially suspected as the individual in the photo provided to rangers, he has a larger physical build and was wearing a winter coat that was a darker color on top, possibly black or navy blue while the bottom half was a lighter blue-grey color. The coat was distinctive in its style with very light piping across the chest, around the back and down the sleeves with a wide light strip just below the shoulder on the sleeves. Further, Barry Hytowitz's jacket did not have a hood. The clothing and physical characteristics of Barry Hytowitz did not match those of the adult individual in Exhibit 5.

When considering the facts as outlined above as applied to the law applicable in this case, the Court FINDS that the Government has satisfied its burden. The Court finds that Defendant Daniel Hytowitz is **GUILTY** of off-trail travel in a thermal area.

DATED this 30th day of August, 2023.



STEPHANIE A. HAMBRICK
UNITED STATES MAGISTRATE JUDGE